

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9668 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

ABDUL HANIF JAINULLA SHA FATHER OF DETENU SALAM ABDUL HANIF

Versus

DISTRICT MAGISTRATE

Appearance:

MR NM KAPADIA for Petitioner

MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 15/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner herein is the father of the detenu-Salam Abdul Hanif Sha and challenges the order of preventive detention datd 26th October, 1998 made against the detenu by the District Magistrate, Surat under the

powers conferred upon him under sub-section 1 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. Alongwith the order of detention, the petitioner has been served with the grounds of detention. It is alleged that the petitioner is a bootlegger within the meaning of Section 2 (b) of the Act and that his activities are prejudicial to the maintenance of public order. The only ground on which the impugned order of detention is challenged is that the detaining authority, while recording his subjective satisfaction, has relied upon several documents which are vital and relevant for the purpose. Four of the said documents at pages 11, 89, 182 and 185 are illegible. It is contended that even under his representation dated 4th December, 1998, the petitioner had demanded legible copies of the said documents, however, the same have not been supplied to him. It is undisputed that the above referred copies of documents given to the petitioner are illegible and subsequently also, legible copies were not supplied to the detenu. In the circumstances, it must be held that the petitioner has been deprived of his right to make effective representation against the order of detention. the impugned order, therefore, is violative of constitutional mandate contained in Article 22 (5). The order is, therefore, vitiated.

3. The petition is, therefore, allowed. The impugned order dated 26th October, 1998; Annexure-A to the petition is quashed and set-aside. Rule is made absolute. The detenu - Salam Abdul Hanif Sha, unless is required to be detained in some other case, be released forthwith.

Prakash*